

Re: Proposed Study on the Effects of Credit Scores and Credit-based Insurance Scores on the Availability and Affordability of Financial Products

Docket Id: 3084-AA94

April 25, 2005

I already addressed many of my credit related concerns in my 8/16/04 submission to the FTC regarding the FACT Act Credit Scoring Study, Matter No. P044804, posted at <http://www.fight-back.us/FACT-Act-Credit-Score-Study-pub.htm> and in my 9/17/04 submission in response to the FRB Request for Information for Study on Investigations of Disputed Consumer Information Reported to Consumer Reporting Agencies, Docket No. OP-1209, posted at <http://www.fight-back.us/9-17-04-FRB-credit-reporting-study.htm>.

In recent years, almost all creditors and many insurers utilized credit scores to evaluate applications and to establish rates. Obviously, the availability and affordability of financial products is greater for high scorers than for low scorers.

Insurers are known to disguise rate surcharges as "good credit discounts."

PEMCO insurance required a minimum credit score of 800 for the best rates:



**PEMCO Mutual
Insurance Company**
325 Eastlake Ave. E., Seattle, WA 98109
1-800-552-7430 toll free

[REDACTED]

Date: 09/28/03

Thank you for choosing PEMCO. I'm pleased to say you'll benefit substantially from our Good Credit Discount this year. I strongly urge you to read the enclosed brochure explaining our Good Credit Discount. It answers many questions you might have.

The Good Credit Discount is calculated from an insurance score; the score is derived from credit reports produced by CSC/Equifax, a national credit bureau. **Your insurance score is 724.** Because it's so high, **you'll receive a 25% discount this year** on your PEMCO policy. We automatically check your insurance score at each renewal. Why? A person's credit history can change from year to year. Consequently, so can your insurance score. You'll find factors that influenced your current insurance score following this letter.

The discount tiers are:	<u>Insurance Bureau Score</u>	<u>Discount</u>
	800 and higher	38%
	750 - 799	30%
	700 - 749	25%
	650 - 699	19%
	600 - 649	13%
	550 - 599	9%

Perhaps you wonder, "What does credit have to do with insurance rates?" Our research shows that people with good credit histories tend to have fewer insurance claims. PEMCO insures only responsible people, and we want to reward them -- those persons least likely to have losses -- with discounts.

Using credit history to help establish insurance rates has become common practice with insurance companies. PEMCO added Good Credit to its other auto discounts in 2001. From the start, we've used credit strictly to determine eligibility for a discount, not to determine whether someone qualifies for PEMCO.

CSC/Equifax can provide you with a free copy of your credit report, which will include a toll-free number for you to call a representative. To get your report, contact CSC/Equifax within 60 days of receiving this letter. Be sure to note you're a PEMCO customer so you won't be charged for the report. Or, simply use the enclosed form.

Unfortunately, very few creditors and insurers disclose how the scores are used to determine rates and premiums.

When **JP Morgan Chase** sent the “Welcome Letter” to the Bank One cardholders after the merger last year, they made no mention of a rate increase or credit reporting in the letter.

In the ultra small print on the enclosed disclosure, JP Morgan Chase disclosed the interest rate increase to 27.99% and that the Experian credit report was obtained.

The entire disclosure is posted at <http://fight-back.us/forum/index.php?showtopic=381>

You have the right to a written statement of specific reasons why we changed the above terms of your Agreement. To obtain the statement, please contact Cardmember Service, P.O. Box 15298, Wilmington, DE, 19850-5298, within 60 days of your receipt of this Notice. We will send you a written statement of reasons within 30 days of receiving your request for the statement. If you write to us, please include your account number. If you have questions about these changes, you can call us at 1-800-436-7919.

We obtained information from a consumer reporting agency as a part of our review of your Account. Its name, address, and telephone number are shown below.

Experian
P.O. Box 2002
Allen, TX 75013-0036
1-888-397-3742

The above consumer-reporting agency did not make the decision and cannot provide you the specific reasons for our action. You are entitled to a free copy of your consumer report from the above agency if you request it within 60 days of this notice. You have the right to dispute the accuracy or completeness of any item in your consumer report.

NOTICE: The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Office of the Comptroller of the Currency, Customer Assistance Group, 1301 McKinney Street, Suite 3450, Houston, TX 77010-9050.

IMPORTANT NOTICE FOR CREDIT CARD CUSTOMERS ABOUT CHANGES TO YOUR CARDMEMBER AGREEMENT— PLEASE READ AND RETAIN FOR YOUR RECORDS

Dear Cardmember:

As your credit card company, we value your business. It is important to us that we provide you with timely information regarding your credit card account.

Periodically, we may change various terms and conditions associated with your account. We share this information with you in the form of a Change in Terms disclosure. The Change in Terms disclosure below advises of upcoming changes that will be effective the first day of your billing cycle that includes January 1, 2005. We hope that you take the time to review this information carefully. Please keep this notice with your Cardmember Agreement for future reference.

Bank One, Delaware, N.A. has merged with Chase Manhattan Bank USA, N.A. During the merger transition you may receive communications from us under both the Bank One and Chase brands. Both brands mean Chase Manhattan Bank USA, N.A., which owns your account and issues your card. Thank you for the opportunity to serve your credit needs. We look forward to serving those needs in the future.

SUMMARY OF CHANGES:

The changes to your Cardmember Agreement will take effect on the first day of your billing cycle that includes January 1, 2005. We have summarized below some of these changes. For complete details about all changes, please read the entire Amendment. The terms described in this Notice that are already in effect on your account will continue to apply.

Using Your Account

Convenience Checks also may be called “Balance Transfer Checks”. We also may give you “Cash Advance Checks” as another type of Cash Advance. Cash Advance Checks will have the same rates and fees as other Cash Advances.

RATE AND FEE CHANGES

Annual Percentage Rate(s):

Purchase Rate: The Prime Rate plus 23.99%, with a minimum of 27.99% (28.74% as of 10/26/04)

Balance Transfer and Convenience Check (Balance Transfer Check) Rate: The Prime Rate plus 23.99%, with a minimum of 27.99% (28.74% as of 10/26/04)

Cash Advance Rate: The Prime Rate plus 23.99%, with a minimum of 27.99% (28.74% as of 10/26/04)

Default Rate: Up to the Prime Rate plus 23.99% on all balances (28.74% as of 10/26/04)

If you fail to comply with certain terms of your account described under the Default Rate section in the amendments to your Cardmember Agreement included with this notice, the default rate takes effect as of the first day of the billing cycle in which that default occurs.

Continues on other side

This JP Morgan Chase mailing was addressed to a young woman serving in Iraq.

She risked her life to protect the United States interests and to prevent another terrorist attack on the world's financial centers as in 2001 in New York. JP Morgan Chase showed its appreciation of her service with the 28% interest rate.

The letter, with no mention of a rate increase or the right to receive the credit report:



Regarding your credit card account ending in 0433

*RECEIVED
11-30-04*

*****AUTO** MIXED AADC 604

NAME
ADDRESS

|||||

Dear ,

As you may know, the JPMorgan Chase and Bank One holding companies merged in July, and Chase and Bank One are merging as one bank under the Chase name. We believe that the merger of our two companies will enable us to serve you better with a greater range of financial products – without sacrificing the quality of service you receive. This information is regarding your Bank One credit card account.

Your satisfaction is important to us and we will do our best to ensure that this transition is as seamless as possible for you. Please know that until the transition is complete, you may receive communications that reflect either the Bank One and/or the Chase name. Your account number will not change and we will continue to honor any instructions you have provided for recurring bills (such as utilities and Internet Service) or for scheduled payment of your credit card account. If you pay by check, please continue to send your payments to the address provided on your monthly statement. You will also continue to enjoy the benefits on your account, such as Zero Liability for Unauthorized Purchases and Emergency Cash and Card Replacement.*

We've enclosed a notice about changes to your Cardmember Agreement. Please read this document carefully and keep this notice with your Cardmember Agreement for future reference. These changes will become effective as noted in the Amendment.

Because protecting your personal information is a priority to us, we are enclosing our Privacy Policy. It describes the ways we protect the Privacy of customer information, the information we share and your right to limit our sharing of information about you. If you have already provided us with your Privacy opt-out choices, **you do not need to contact us.** If you want to change the prior opt-out choices you gave us or have other questions regarding Privacy, please call us at the number listed inside the enclosed Privacy Policy.

If you have any questions about the other enclosed information or about the merger, please feel free to contact us 24 hours a day, 7 days a week at (800) 436-7919.

Thank you for your business. It is our pleasure to serve you.

Sincerely,

Cardmember Service

The JP Morgan Chase mailing was received by the cardholder's mother and while she was one of the few recipients who actually read the disclosures and noticed the rate increase, there was nothing she could do for her daughter.

Experian does not accept a power of attorney to release consumer reports and to process disputes – regardless of the consumer's situation.

Experian could not care less that a consumer is serving in Iraq or hospitalized or otherwise unable to order and review the credit reports and to submit disputes. When the disadvantaged can't personally deal with credit issues, they no longer have any rights whatsoever.

My own ordeal with Ameriquest – unresolved despite my lawsuit:

Ameriquest failed to provide me with the Adverse Action notice after it apparently declined my mortgage application due to my credit scores and it failed to provide me with the promised credit reports despite my repeated requests.

In 4/04 I responded to e-mailed mortgage SPAM and I was subsequently contacted by Ameriquest. I only agreed to apply for a mortgage with Ameriquest because loan agent Beatrice promised to send me the credit reports with the FICO scores and she assured me that they had loans for self-employed persons without requiring tax returns or any other documentation to substantiate income.

After Beatrice had ordered my credit reports, I received a call from another mortgage broker. According to his VM, Beatrice could not help me and she had provided him with my contact info (without my consent.) Apparently, my credit scores did not comply with their underwriting guidelines for "no doc" loans.

I have several open revolving accounts and many years of established credit. While I *should* not have a single late payment, charge-off or collection on my credit, I don't know what was reported on the reports leading to the decline.

Lender credit reports frequently contain totally different information than what the CRAs provide on the consumer disclosures.

Fair Isaac sells various versions of its FICO credit scoring software, sometimes resulting in differences of 20 or more points between the credit scores it sells to consumers at its website myFICO.com and the scores on the lenders' mortgage credit reports.

The CRAs have been "blocking" my reports at myFICO.com due to litigation and I haven't been able to get a Trans Union FICO score in several years, if ever. CRAs very effectively use this tactic to deter consumers from suing them as it will greatly reduce the consumers' ability to increase their scores and to obtain mortgages.

Trans Union also “split” my credit file, maybe Ameriquest received the credit report with only one account?

Ameriquest did NOT provide the adverse action letter as required by the FCRA and ECOA. Despite my repeated requests, I never received the promised credit reports.

I finally sued Ameriquest in Phoenix Federal Court on 6/9/04, case #.

In response to my lawsuit, Ameriquest committed perjury, falsely claiming that I was denied because I failed to provide W-2s and pay stubs.

Just last week, after many filings, but prior to discovery, Judge Neil Wake ruled that there was absolutely nothing wrong with the vile Ameriquest conduct and he dismissed my claims under the Arizona Consumer Fraud Act.

The entire ruling as well as all the filings and exhibits are posted at my website at <http://forum.creditcourt.com/discus/messages/4781/4781.html>

9 **B. Arizona Consumer Fraud Act**
10 The Arizona Consumer Fraud Act, A.R.S. § 44-1522(A), prohibits "any deception,
11 deceptive act or practice, fraud, false pretense, false promise, misrepresentation or
12 concealment, suppression or omission of any material fact with intent that others rely upon
13 such concealment, suppression or omission, in connection with the sale or advertisement of
14 any merchandise." Plaintiff alleges that Ameriquest enticed her to apply for a loan "with
15 false promises of credit reports, competent consultation and availability of loan programs for
16 self-employed persons." (First Am. Compl. ¶ 127.) To succeed on her Consumer Fraud Act
17 claim, Plaintiff must prove "a false promise or misrepresentation made in connection with
18 the sale or advertisement of merchandise and consequent and proximate injury resulting from
19 the promise." *Kuehn v. Stanley*, 208 Ariz 124, 129, 91 P.3d 346, 351 (Ariz Ct. App. 2004).
20 Ameriquest argues that the amended complaint does not allege any injury or harm to Plaintiff
21 from such action or omission by Ameriquest. Construed in the light most favorable to
22 Plaintiff, her First Amended Complaint alleges that Ameriquest's request for her credit report
23 lowered her credit score and caused her to lose out on various credit offers and opportunities.
24 (First Am. Compl. ¶ 154.) Of greater concern is whether Plaintiff adequately alleged a false
25 promise or misrepresentation. The only promise she alleges she relied on was by an
26 Ameriquest loan officer named Beatrice, who allegedly promised Plaintiff that she would
27 mail Plaintiff her credit reports. *Id.* ¶ 110. Plaintiff alleges that she relied on this promise
28

1 by providing Beatrice with her social security number and identifying information so
2 Beatrice could order the credit reports. *Id.* ¶ 111. However, Plaintiff did not allege that
3 Beatrice promised to send the reports with no intent to do so. In fact, she alleges that
4 Beatrice explained to her that she did not send the credit reports because she had been away
5 from work due to an illness in her family. *Id.* ¶¶ 114-15. To give rise to a fraud claim, a
6 promise to perform a future act must be made with "the present intention on the part of the
7 promisor that he will not perform it." *Waddell v. White*, 56 Ariz. 420, 428, 108 P.2d 565, 569
8 (Ariz. 1940). Plaintiff has not alleged any such promise. Therefore, her First Amended
9 Complaint fails to state a claim under the Arizona Consumer Fraud Act.

Of course I did not claim that Beatrice did not intend to send the credit reports when she promised to do so – prior to discovery I have no idea whether this is so.

To date, Ameriquest refuses to acknowledge that credit was the reason for my decline and it refuses to provide me with the promised credit reports.

I have the recordings of Beatrice's promises to send the reports, the VM of the other broker after she had provided my information to him without my consent and I have Beatrice's VM in response to my request for an explanation, admitting the decline.

The recordings are posted with my 9/10/04 press release "Consumer Sues Ameriquest Mortgage Company for Spamming, False Promises, Misrepresentation and Incompetence <http://www.emediawire.com/releases/2004/9/prweb156653.htm>

Ameriquest never objected to my press releases and to the postings at my forum at <http://fight-back.us/forum/index.php?showforum=25> and at my blog at <http://www.creditsuit.org>.

Ameriquest knows that all my claims are fully documented and nothing but the truth.

Why is the FTC condoning the Ameriquest practice to purchase leads from spammers violating every provision of the CAN SPAM Act?

The FTC does nothing about the Ameriquest and most other predatory lenders' illegal marketing and lending practices.

My 1/10/05 press release: Ameriquest Mortgage Illegal Purchase of Consumer Credit Reports for Target Marketing and Privacy Law Violations <http://www.emediawire.com/releases/2005/1/emw195723.htm>

I have been working with readers and clients to increase their credit scores since the mid 90s.

It is most frustrating to have to watch how credit scores are utilized to redistribute wealth from the poor to the rich.

Low scorers are 3rd class citizens

Often their entire disposable income and more is funneled to banks, predatory lenders, insurers and credit bureaus. They are often deprived of the most basic services such as bank accounts and utilities and sometimes they can no longer afford to insure their cars to drive to work.

It is no coincidence that many minorities, immigrants and women tend to have lower scores.

Low scores are often the direct result of fewer opportunities and/or low income.

Trying to increase credit scores for the disadvantaged is often as futile as trying to pull yourself out of a swamp by pulling your own hair – the scoring system is designed to keep low scores low and high scores high through complex algorithms.

Example: While a credit inquiry by a high scorer may cause no point loss at all, the same inquiry by a low scorer can cause a score decline of up to 35 points.

Credit scores exist for two reasons:

- a) To enable corporations to charge artificially high interest rates, fees and insurance premiums to many millions of disadvantaged consumers. The low scorers are targeted by predatory lenders and often end up in bankruptcy and/or foreclosure due to atrocious rates and fees.
- b) To provide artificially low interest rates, fees and insurance premiums to the wealthy and the upper middle class.

The disadvantaged are the people who are struggling to get by, often working 2 or 3 jobs, self-employed, serving in the U.S. military, ill, old, single parents, minorities, immigrants, homeless or otherwise “handicapped” by the lack of time, cash and/or skills to successfully increase their credit scores.

It is heart breaking to have to watch how honest and hard working people are exploited by predatory lenders such as Wells Fargo, Ameriquest, Household, Citi Group, Capital One and many others and of course by the insurance companies who use credit scores to increase premiums.

The 3 credit reports with the FICO scores cost \$45 and to increase the scores it is usually necessary to review the score factors. Unfortunately, most of my readers and clients already wasted their cash on the fraudulent scores sold by Trans Union and Experian before they read my sites. Many consumers spend literally hundreds of dollars on credit reports and scores every year.

As long as my clients have cash and/or family willing to help with cash and/or existing revolving accounts with long good history, low credit scores due to collections, charge-offs, bankruptcy and/or lack of good account history can be substantially increased in a few days or weeks.

Credit scoring does not work.

- Low scores force many consumers into default and often bankruptcy and/or foreclosure through increased rates and/or declines for low rate credit offers.
- High scores often result in reckless loan approvals and many borrowers will default on their mortgages as rates go up because "common sense" underwriting is less profitable for the loan originators.

The lenders, executives and loan agents reaping those undo profits will most likely not be held responsible for future losses. Instead, HUD, FNMA, FHLMC and other secondary market investors will be suffering the losses and the tax payers will ultimately be bailing out those institutions and HUD.

Credit scoring is increasingly responsible for defaults as its use becomes more widespread and even utilities use scores. It is very likely that scoring will ultimately be a major contributing factor to the next great depression.

It is unconscionable that the human beings with the power to stop this madness, the corporate executives and the commissioners in government agencies such as the FTC, do absolutely nothing to stop the exploitation of the disadvantaged and to prevent the collapse of the economy due to the defective credit scoring system.

Sincerely,

Christine Baker